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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,353	03/27/2002	Matthew Gray Megoff	CM2415M	1365

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EXAMINER

LE, HOA T

ART UNIT PAPER NUMBER

1773

DATE MAILED: 08/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/089,353	Applicant(s) MCGOFF ET AL.	
	Examiner H. T. Le	Art Unit 1773	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-20,22-26,29 and 32-38 is/are pending in the application.
4a) Of the above claim(s) 41-44 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 32-38 is/are allowed.
- 6) ☒ Claim(s) 16,17,20,23,25 and 29 is/are rejected.
- 7) ☒ Claim(s) 18,19,22,24 and 26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 16, 20, 23, 25 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Carson et al (US 4,328,131).

Claim 16: Carson teaches an elastic bar comprising a polymeric material, a plasticizer, a stabilizing agent and an active substance. See col. 1, line 5; col. 6, lines 21-24 (foam matrix: gelatin and plasticizer); col. 7, lines 10-15 (stabilizer); and col. 2, line 20 to col. 4, line 64 (active ingredient). The elastic bar is designed to be squeezed to release the active substance in water (col. 1, lines 15-20), and thus satisfies the claimed language “is adapted to deliver said active ingredient to an aqueous environment”.

Claim 20: col. 7, lines 14-15.

Claim 23: col. 2, line 20 to col. 4, line 64.

Claim 25: col. 2, line 19.

Claim 29: col. 1, lines 15-18.

3. Claims 16, 17, 20, 23, and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by McDermott et al (US 5,543,439).

Claim 16: See abstract. Because the composition is made with a majority amount from extruded polyvinyl alcohol, it's elastic.

Claim 17: col. 4, lines 30-34.

Claim 20: col. 4, lines 4-6 and col. 17, lines 42-43.

Claim 23: col. 4, lines 30-34.

Claim 29: See abstract.

Allowable Subject Matter

4. Claims 32-38 are allowed.
5. Claims 18, 19, 22, 24, and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. The following is a statement of reasons for the indication of allowable subject matter: None of the prior art references of record, singly or in combination, teach or suggest an elastic article comprising a matrix with specific properties (claims 18, 19 and 26), containing an enzyme (claim 19), having specific dimension (claims 24 and 32-38) as claimed.
7. References are cited as art of interest.
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to H. T. Le whose telephone number is 571-272-1511. The examiner can normally be reached on 10:00 a.m. to 6:30 p.m., Mondays to Friday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'H. T. Le', with a stylized, cursive script.

H. T. Le
Primary Examiner
Art Unit 1773